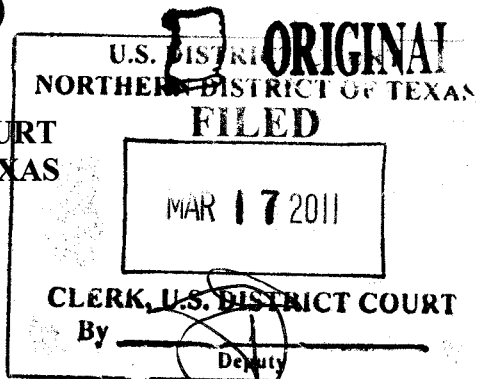


BK

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION



BARBARA JEANNE ALTEMEIER,

PLAINTIFF,

v.

DALLAS COUNTY, TEXAS (1); et al.,

DEFENDANTS.

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No. 3:10-CV-02646-N (BK)

**PLAINTIFF'S MOTION FOR RECONSIDERATION
OF DENIAL OF DEFAULT JUDGMENTS**

NOW COMES Barbara Jeanne Altemeier, Plaintiff, to file this Plaintiff's Motion for Reconsideration of Denial of Default Judgments and would show the Court the following to wit:

The Honorable Magistrate Judge issued an Order on March 3, 2011 (Docket Item #59) informing Plaintiff that her motions for default (Docket Items #45-49) were denied February 15, 2011 in an "unnumbered docket entry". However, there is nothing on the docket sheet indicating the denial of these motions for default judgment noted by said Order of March 3, 2011, and Plaintiff had no notice of same before March 6, 2011. Plaintiff, having had first notice of these denials on March 6, 2011, now so responds on this date with this Plaintiff's Motion for Reconsideration.

Additionally, because Plaintiff had no notice of the denial of her motions for default, and was waiting for a ruling on those motions before responding fully to some Defendant's Motion to Dismiss, the time limit for Plaintiff to file a response to those Defendant's Motion to Dismiss are arguably incorrect.

Also, the denial of the Motions for Default is incorrect.

**LATE ANSWER BY DEFENDANTS FRUITPORT TOWNSHIP, MICHIGAN
AND JAMES SCHULTZ:**

Defendant Fruitport Township, Michigan was served Summons, Complaint, and First Amended Complaint on December 17, 2010 (Docket Item 16).

Defendant James Schultz was served Summons, Complaint, and First Amended Complaint on December 17, 2010 (Docket Item 17).

The twenty-one (21) days time limit for Answer of Summons expired on January 7, 2011. Any pleadings filed after the 21 day deadline is null and void, and should be stricken from the record.

Plaintiff filed Request for Clerk to issue Clerk's Entry of Default as to Fruitport Township, Michigan on February 3, 2011 (Docket Item 46).

Plaintiff filed Request for Clerk to issue Clerk's Entry of Default as to James Schultz on February 3, 2011 (Docket Item 47).

**LATE ANSWER BY DEFENDANTS MUSKEGON COUNTY, MICHIGAN,
TONY TAGUE, AND DALE J. HILSON:**

Defendant Muskegon County, Michigan was served Summons, Complaint, and First Amended Complaint on December 17, 2010 (Docket Item 15).

Defendant Tony Tague was served Summons, Complaint, and First Amended Complaint on December 17, 2010 (Docket Item 18).

Defendant Dale J. Hilson was served Summons, Complaint, and First Amended Complaint on December 17, 2010 (Docket Item 19).

The twenty-one (21) days time limit for Answer of Summons expired on January 7, 2011. Any pleadings filed after the 21 day deadline is null and void, and should be stricken from the record.

Plaintiff filed Request for Clerk to issue Clerk's Entry of Default as to Muskegon County, Michigan on February 3, 2011 (Docket Item 45).

Plaintiff filed Request for Clerk to issue Clerk's Entry of Default as to Tony Tague on February 3, 2011 (Docket Item 49).

Plaintiff filed Request for Clerk to issue Clerk's Entry of Default as to Dale J. Hilson on February 3, 2011 (Docket Item 48).

ARGUMENT:

The Honorable Magistrate Judge has misunderstood and misread the case of Charles L.M. v. Northeast Indep. Sch. Dist., 995 F.2d 222 (5th Cir. 1993).

In both Charles L.M. V. Northeast Indep. Sch. Dist., supra. and the above styled case a FED. R. CIV. P. 12(b) motion was filed by a defendant instead of an answer. The court states:

“Rule 12 allows the defendant to assert the defense of a failure to state a claim upon which relief can be granted as an independent motion in response to a complaint and need not be a part of an answer. See FED. R. CIV. P. 12(b). This is precisely what TEA did when it filed its 12(b)(6) motion. Default judgment is improper if a party is defending against suit.”

However, the facts of Charles L.M. V. Northeast Indep. Sch. Dist., supra, and this case are opposite, because in the former case both Defendants filed a response within the twenty-one (21) day limit, while in the above styled case Application for Admission Pro Hac Vice was filed by G. Gus Morris (Docket Item 31) to represent Fruitport Township, Michigan and James Schultz twelve (12) days late, and Affirmative Defenses and Answer to Complaint was filed on behalf of Fruitport Township, Michigan and James Schultz on January 24, 2011 (Docket Item

39) seventeen (17) days late, while a Motion to Dismiss and Brief and Support, acting as their Answer, titled "Defendants, County of Muskegon, Tony Tague and Dale Hilson's Motion to Dismiss Under F.R.C.P. 12(b) and Brief in Support" (Docket Item 43) was filed by Defendants Muskegon County, Michigan, Tony Tague and Dale J. Hilson by Ronald G. Acho on January 27, 2011, twenty (20) days late.

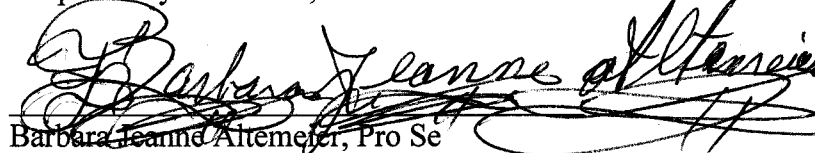
The Defendants Fruitport Township, Michigan, James Schultz, Muskegon County, Michigan, Tony Tague and Dale J. Hilson in this case did not file anything within the twenty-one (21) days according to FED. R. CIV. P. 12(a).

Defendants are not given extra time to file an answer or other response between the last day of the twenty-one (21) day time limit and the date when the Defendant files her Notice and Motion for Default Judgment under the Federal Rules of Civil Procedure.

The Defendants are in default when they have "...failed to plead or otherwise defend as provided by these rules..." (See Fed. R. Civ. P. 55 (a) and 12 (a).) Again, the Defendants have failed to plead or otherwise defend within the twenty-one (21) days. We all have to abide by these rules.

THEREFORE, IT IS Prayed that the denial of Motion for Default Judgment and time limit for responses be reconsidered.

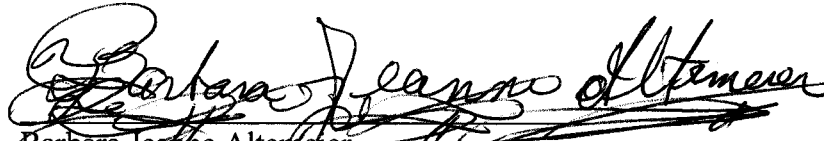
Respectively submitted,


Barbara Jeanne Altemeyer, Pro Se
13861 Yockey Street
Garden Grove, California 92844
(714) 379-9557

VERIFICATION

IT IS HEREBY Verified that under the penalties of perjury that the foregoing Plaintiff's Motion for Reconsideration of Denial of Default Judgments is true and correct to the best of my knowledge and belief.

Witness my hand and seal this 15 day of March, 2011.


Barbara Jeanne Altemeier

CERTIFICATE OF SERVICE

IT IS HEREBY Certified that a copy of the aforementioned Plaintiff's Motion for Reconsideration of Denial of Default Judgments was sent by First Class Mail on the 15 day of March, 2011 to the Defendants below.


Barbara Jeanne Altemeier

G. Gus Morris
McGraw Morris P.C.
2075 W. Big Beaver Road
Troy, Michigan 48084

Richard G. Acho
Cummings, McClorey, Davis & Acho, PLC
33900 Schoolcraft Road
Livonia, Michigan 48150

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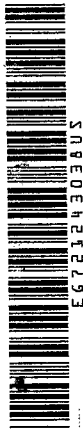


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| TO: (PLEASE PRINT) CLERK U.S. District Court for the Northern District of Texas 1100 Commerce St, RM 1452 Dallas, TX 75242-4200 | | PHONE 214-333-2200 | |

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